

WHARTON PLANNING BOARD  
REGULARLY SCHEDULED MEETING  
August 11, 2020

The regularly scheduled meeting of the Wharton Planning Board was held virtually and was called to order with Chairman Ken Loury reading the Open Meeting Statement as required by law as well as a statement regarding allowing the remote meeting and the Judicial Proceeding Statement.

ROLL CALL was taken and the following members were present: Chairman Ken Loury, Mayor William J. Chegwiddden, Councilwoman Wickenheisser, Mr. Roger Steele, Ms. Charlotte Kelly, Mr. Marc Harris, Mr. Patrick O'Brien. Mr. Peter Rathjens, Mr. Brian Bosworth and Mr. Christopher Fleischman. Also present were Attorney Alan Zakin, Planner Jessica Caldwell, Engineer Christopher Borinski and Secretary Patricia Craven. Excused was Barb Chiappa.

The pledge allegiance to the American Flag was next.

The reading of the bills was next. A Motion was made by Ms. Kelly and Seconded by Mr. O'Brien to approve the bills. YEA - 10 NAY - 0

Chairman Loury stated that they would have the discussion of the 170 North Main Street Redevelopment Plan first because our Planner had another engagement and would have to leave early.

Planner Caldwell stated that they will be talking tonight about a Redevelopment Plan which is governed by Local Housing and Redevelopment Law. This is a different statute and process than the Municipal Land Use Law which is what the Board governed by when they conduct a site plan review. She went on to explain the purpose of the Redevelopment Law and the purpose and roll of the Planning Board, Mayor and Council and the process. Once a Redevelopment Plan is adopted for a site it becomes the zoning standard for that site.

Attorney Zakin stated that this is the Boards opportunity to review what is in the Redevelopment Plan, see if it is consistent with the Master Plan, make any comments and ask questions to make sure they are comfortable with it going back to the Council. Once it goes back to the Council and is adopted, the developers can be selected. Usually there aren't any variances, so if a developers site plan conforms to the Redevelopment Plan the site plan will get approved. Once the Redevelopment Plan is adopted it is very hard not to approve applications in the new redevelopment zone. This is something the Board should keep in mind in considering this Redevelopment Plan tonight.

Mr. Harris commented on the mapping of the plan area of the redevelopment area. He mapped that area himself and found that Block 301, Lot 1 is closer to 5 acres than the 3 acres referenced in the report. The official record within the Land Use shows 3 acres as well. He also stated that on the overlay zone, they show a height of 55 ft. but later in the report, as one of the 3 allowances, it states that a principal structure can exceed by 10 feet or 10% which would be 65 feet. Would they be authorizing a 65 ft. height?

Ms. Caldwell stated that the Council can take into consideration the Boards comments and recommendations but they do not have to adopt them. Ms. Caldwell stated that Mr. Harris's comment on the 65 ft. height is not correct. The 10% or 10 ft over is something that cannot be approved by the Planning Board. Anything that would be a D variance or Use variance cannot be approved by the Planning Board acting as a Zoning Board. It would have to go back to the Council for an amendment to the Plan. If the applicant applied to the Planning Board with a D variance the application would not be accepted.

Ms. Caldwell stated that this Redevelopment Plan is for 170 North Main Street, she pointed out the overview of the area in the report. This area was designated back in the 90's as part of the LE Carpenter Redevelopment Area. There are other parcels within the Redevelopment area however the Redevelopment statute allows the Council to apply a Redevelopment plan to individual parcels or the area as a whole. They have a developer interested in this particular site. We are creating a plan to allow for the types of uses that are being proposed. There have been other Redevelopment plans on this site, a Municipal overlay zone and the most recent overlay was for a mixed business and industrial zone. The proposal we are looking at tonight is adding a mixed-use zone.

Mayor Chegwiddden stated that the new county road goes through the site, eminent domain moved the trail and took the road. Ms. Caldwell stated that they did not have the exact parcel for the roadway and changes. What they are showing on page 2 is the tax parcel. She pointed out where the new road cuts through the site which leaves some of the parcel on the other side of the new road. There was also right of way taken, which could be the difference in the size of the parcel that Marc Harris spoke about earlier. The covered walkway bridge is not on this parcel.

Attorney Zakin stated that the Main Street Redevelopment Plan consisted of 23 parcels of which only 6 parcels were part of the Wharton CHA Urban Renewal application. There are still 17 parcels that can be redeveloped according to that Redevelopment Plan.

Ms. Caldwell stated that even though someone is proposing a plan doesn't mean that they will be the ones developing it so they do try to approve an ordinance that makes sense for the long run.

Ms. Caldwell continued, stating that the purpose is to create a mixed-use zone that allows retail, office and residential uses in a building or buildings on this site. They conducted a consistency review with the Master Plan going back to 1994 and the reexamination in 2005 and 2015. They found some objectives that are pertinent to the Redevelopment Area which are listed on page 4, a, b and c. a - includes the continuation of Main Street through this property. b - the site is a former industrial site and c - encourage new development.

Mayor Chegwiddden stated that they do not like to see the parking on the Main Street and would like to tuck it behind the buildings as they have done on the other Main Street developments. They would like to see that look continue. The County would have to look at the ingress and egress on this site. Mr. Loury would like to look at the egress and ingress and does not want the traffic to be going onto Ross Street.

Ms. Caldwell stated that some of the uses permitted are retail trade services, eating and drinking establishments, business and professional offices, indoor recreation and apartments in conjunction with one or more additional permitted mixed uses. They also have some typical

conditional uses and accessory uses. She went over the Overlay Zone chart on Page 8 of the Redevelopment Plan. The North Main Street Setback and North Main Street Extension Setbacks are both 5 ft. minimum and 60 ft. maximum. Although they are talking about all the parking being behind the buildings, the developer did request to have some parking in the front along the frontages in order to have more uses like a Starbucks or Krispy Crème donut shop. This plan would allow for that flexibility but would require buffering of the parking area so that the you would be looking over the minimal amount of parking and would be looking at the building. They have buffer, screening and landscaping requirements particularly along the property adjacent to the residential properties as well as the dumpster.

Mayor Chegwiddden stated that across the street from the Redevelopment zone is the old Hot Rods and he mentioned that the buffer there was never maintained as well as the dumpster never being enclosed and it became an eye sore. He wants to make sure that these detrimental aspects are not repeated in this plan.

Mayor Chegwiddden had some changes:

**Buffer and Screening**

Page 10 – First Line A to read – Change Should to “**shall**” - “The Redeveloper ***shall*** buffer or screen..” And take out “***to the extent practical***”

Line E – the Mayor wants to make sure the dumpster is fully screened. He does not want to see a wooden fence because they tend to fall apart. Maybe a green fence.

**Street Trees –**

C – Wants to make sure they are mature trees and trees that flower consistent with the others along Main Street. Ms. Caldwell seems to think that what they are proposing in their description of the trees are decent size trees.

Mr. Harris would like to make sure the dumpster area is screened with a solid enclosure and not just trees. They can always add trees around the enclosure.

Mr. Loury asked if they can restrict the front parking just for the businesses. Ms. Caldwell stated that 45% of the parking is restricted to the North Main Street and the North Main Street Extension. Instead of having the 45% parking restriction they can change that to only parking for retail uses. Chief Young was not sure they could meet their number of parking spaces if that is limited to the retail only. Right now, they don’t know what the parking is going to be because we don’t know what the retail establishments are going to be. It is undetermined what the number of spaces they will need. Ms. Caldwell stated that this was just the parking in the front of the building assuming that the rest of the parking will be behind and under the building. The residential parking will meet RSIS standards. Mr. Loury stated that they would make the whole property compliant with the RSIS standards. In answer to Mr. Harris, 105 residential units would be the maximum units allowed plus the commercial units. They are looking for ground floor retail, office, business or commercial use with residential over them.

Chief Young asked what requires more parking, eating establishments or retail. Ms. Caldwell stated that restaurants usually require more parking than retail. Restaurants are based on the number of seats.

Mr. Bosworth stated that there are highs and lows depending on the type of business. Ms. Caldwell agreed and they can try to have shared or complimentary uses.

Peter Rathjens asked if a shooting range would be considered an indoor recreational use. Ms. Caldwell stated it might be, she would be hesitant to put it in a residential building. Recreation was included in the plan because there is the escape room across the street. She has seen recreational uses in store fronts. It was stated by a few of the Board Members that there is a shooting range approved in Wharton already.

Mr. Loury asked Ms. Caldwell to explain what a unit is. The plan states 35 units per acre. Ms. Caldwell stated that they have not defined how many bedrooms per unit but they could. They can limit the number of bedrooms except for the affordable housing which is by statute. For the market rate they could say 50% can be 1 bedroom and 50% can be 2 bedrooms if they do not want to see a lot of larger units. Mayor Chegwiddden stated that it would have to be profitable for the developer. Ms. Caldwell stated that that is usually how they determine the number of units. She has not seen many developers ask for 3-bedroom units but recently they have asked for a couple 3-bedroom units.

Mr. Steele was looking on Page 3 – the Purpose. Is it possible that the developer may come in and make this all residential? Ms. Caldwell stated that the way the plan is written, they could not. There are other areas where that would make sense such as across the rail trail from this property. Because this property runs along Main Street and the Main Street Extension, they thought it was a good area for retail. They cannot have just residential but they can have just commercial.

Mayor Chegwiddden referenced Page 11-12

1. – he wants to make sure the 2-foot paver strips are clay and consistent with the others that they have in town.
5. – Last sentence – change the word “may” after Planning Board to “shall”  
And it should say clay bricks after that. He wants to make sure they are also clay bricks.
  - A. Change the word “must” after Main Street Extension to “should”
  - B, D, E & F Change the word “should” to “shall”

Mr. Loury asked about the street lights and wants them to match the existing lights along Main Street. Ms. Caldwell will specify that under the lighting section A. She will reference the plans and details of the lights from 2007 Main Street Study. Also Mr. Loury would like louver type screening and not bars for any underground parking.

Mr. Rathjens asked about maximum foot candles for streets, sidewalks and parking areas. Mr. Borinski stated that there are standards for the lighting in the Land Development Ordinance. It may need to be looked at again. Current standards are a little higher than what is allowed in the ordinance. The one lighting restriction that is in there is the Max of .13 at the property line which he feels is good. Ms. Caldwell will put a reference to that section of the Ordinance and they would have to meet that section. Mr. Borinski agree with that.

Mayor Chegwiddden brought up the Blade signs. Mr. Loury stated that he likes the look of the Blade signs he just didn't like 15 of them on one building like what was presented in the Main Street Redevelopment Plan. He believes they are sharp looking. Ms. Caldwell can add in Blade signs or reference it to the Ordinance. She agreed that they can look very nice. Mr. Harris stated

that he is fine with them as long as the look is similar to the ones they just approved, which he agreed look good.

Mr. Loury brought up the height of the building and asked what the Board's opinion was about the height. Mr. Zakin asked the Board to keep in mind that their mandate is to review this plan for consistency with the Master Plan and be guided by that standard when they have this discussion and make their decision.

Mr. Loury stated that they all know the public's thoughts on it and can see both sides. He can see where the retail would be good for the town and can see the residential being a lot of units, a lot of people and more traffic for the town.

Ms. Caldwell stated that the height is consistent with the height of Port Oram, the Canal House property application and the Main Street Redevelopment. When doing a mixed-use building, having 3 stories of residential units is what makes it financially feasible because of the type of construction they have to do. It is the type of height and use that fits into the downtown. You also have 175 N. Main St. across the street which is a very high building and they would be consistent with that building.

Mr. Steele asked where the statistics comes from that 3 residential floors above retail is the magic number; what is it based on? Ms. Caldwell thinks it is the cost of the building, you need a certain amount of density to make it work. She just knows this from working with developers. It is most likely not going to be built if it is only 2 floors over retail.

Marc Harris stated that by providing developments like this we are restoring Main Street rather than having empty lots, dilapidated buildings and eyesores. By doing this they are supporting the commercial entities in the downtown. He believes 4 story is reasonable.

Mayor Chegwiddden stated that this site was a superfund site and an eyesore for a long time. The property didn't produce any tax for the town and the tax burden went on the rest of the residents in town. This is the kind of thing that helps keep our taxes down. This did not happen overnight. This has been 25 – 30 years in the making. The new road is also 25 – 30 years in the making. We are getting rid of eyesores and lifting up the town. We have been improving the parks as well as other areas of town.

Mr. Rathjens would like the colors of the building they will be putting up, to match the colors of the buildings across the street. He doesn't want to lose the historic feel. Ms. Caldwell stated that on Page 11 they do have language where they would like it to look similar to buildings in the area.

Ms. Caldwell will make Page 11, Item A under Building Design clearer in its description that the Main Entries will be facing the Main Street and Main Street Extension and not the rear of the buildings. Item B – Ms. Caldwell explained what Maximize bulk and massing opportunities meant. She explained that they may have on the building a clock tower, a cornice feature or a type of feature that gives it architectural scale so that it is interesting and unique.

Ms. Caldwell explained again that mixed use could be all commercial and not have any residential. The market is for residential and she is fairly certain that it will include residential.

Mayor Chegwiddden stated that the Air Products parcel is still zoned for light industrial.

The meeting was now open to the public and with no public asking questions it was closed to the public.

Mr. Harris asked if there was any way a big box store could be built on this property. Ms. Caldwell stated that they can add that one use is not allowed on the property only mixed use.

Mr. Rathjens pointed out that on page one is the name Jared Coursen who is no longer on the Board.

Attorney Zakin stated that the Board can vote for this or against this with or without comments.

A Motion was made by Marc Harris and Seconded by Roger Steele to recommend to the Mayor and Council the approval of the 170 North Main Street Redevelopment Plan with all the comments and changes suggested by the Board. YEA – 10 NAY – 0

Next, under Old Business was the minutes of the August 4, 2020 Planning Board meeting. A Motion was made by Christopher Fleischman and Seconded by Patrick O'Brien to approve the minutes. YEA – 8 NAY – 0 ABST – 2 (Wickenheisser, Rathjens)

Next, on the agenda, was the reading of the Resolution for Wharton CHA Urban Renewal, LLC. Chairman Loury read the Resolution. Some discussion followed and the following changes were made:

Page 1 – 2<sup>nd</sup> paragraph – capitalize “master plan”

Page 2 #2 – ATLA should be ALTA

Page 4 #3 – 2<sup>nd</sup> line – (6) feet should be “inches”. 4<sup>th</sup> line add “feet” after 7.67

Page 5 – lines 8, 9 and 10 take out the duplicate – A-1-8/04/20 and Exhibit A2-8/04/20  
2<sup>nd</sup> paragraph – 3<sup>rd</sup> line Batista should be “Basta”

Page 6 – 1<sup>st</sup> line add “Dynamic Traffic” after Chase

Page 8 - #10 – add “that” after 07003

Page 10 #14 – after townhomes add “contains interesting architectural elements, for example it”

#16 – after property change “and” to “on”

#17 – 4<sup>th</sup> line – take out the word “be”

#20 – after the word Board “if they would want to have additional tenant blade signs for use by a third retail tenant in the Main Street building”

Page 12 #29 end of sentence take out the period and add “: and”

Page 13 3<sup>rd</sup> paragraph, 3<sup>rd</sup> line – take out “has submitted an application”

Page 15 #4 – 7<sup>th</sup> line – “Period” after conditions and capitol “T” on the word the.

The Board Secretary and LIPRA, LLC will both get a copy of the photos.

Page 16 #7 last line – take out the word “been”

#10 – 1<sup>st</sup> line - Add “Board” before Planner and Attorney

Last line – Add “and” between public commercial and take out “which of”

Page 17 #10 – add the word “and” after public

#14 – 2<sup>nd</sup> line – add after considerations- “reasonable” take out “Site Plan” and replace with “sight line”

#15 – take out “county road”

#15 & #16 change site to “sight”

Page 18 #21 – 2<sup>nd</sup> line take out the word “or”

A Motion was made by Roger Steele and Seconded by Marc Harris to approve the Resolution with the corrections listed. YEA – 7 NAY – 0 ABST – (Rathjens)

The correspondence from the Morris Hills Regional Board of Education Long Range Facility Plan Updated 2020 which was sent out to the Board members, was next on the agenda. After a brief discussion it was decided Administrator Jon Rheinhardt would look into what the Board was expected to do with this report and get back to us. Attorney Zakin stated that the statute that they referenced in the report 40:55D-31D states that the Planning Board shall review the report and make sure it coordinates properly with the long-range Master Plan of the Planning Board. It says that the Board shall devote 1 full meeting for the presentation and review of the plan, prior to adoption of a Resolution that sets forth the Boards findings. Chairman Loury asked Secretary Craven to reach out to Planner Caldwell to get a cost for this presentation and take into consideration all the new redevelopment plans.

Dharmesh Parikh from Wharton Pharmacy asked if they would read the paragraph about the photographs. Mr. Steele read paragraph #4 on page 15 of the Resolution, as it reads now. Attorney Zakin stated that they added to that paragraph that a copy would be sent to the Board Secretary. Dharmesh Parikh asked if they could get a copy of the photographs and videos. Mr. Zakin stated that they will include that in the resolution. Mr. Parikh asked if they would be taking photos of the inside of his building. Chairman Loury stated that it was left as “in cooperation with Lipra, LLC.”, so if the Parikh’s want photos of the inside then the applicant will have to take pictures of the inside as well.

A Motion was made by Brian Bosworth and Seconded by Patrick O’Brien to adjourn.

YEA – 10 NAY – 0

Meeting adjourned 9:35 pm

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Patricia M. Craven - Secretary

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Ken Loury - Chairman